

REMARKS

The present communication is responsive to the Office Action mailed January 24, 2010. A one-month extension of time is transmitted herewith extending the period of reply from March 24, 2010, up to and including April 24, 2010.

Claims 1, 5, 6, 11, 12 and 16 were rejected in the Action. Claims 1 and 16 have been amended and no claims have been canceled or added herein. Therefore, claims 1, 5, 6, 11-13, 15 and 16 remain pending in the present application. Support for all claim amendments can be found in Applicants' originally filed disclosure. As such, no new matter has been added. Applicants thank the Examiner for allowing claims 13 and 15. Applicants set forth remarks relating to the Office Action below.

In the Action, the Examiner rejected claims 1, 5, 6, 11-12 and 16 under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,443,514 to Steffee ("Steffee") in view of U.S. Pat. No. 6,821,298 to Jackson ("Jackson") and U.S. Pat. Pub. No. 2003-0083747 to Winterbottom *et al.* ("Winterbottom").

Applicants respectfully assert that a *prima facie* case of obviousness cannot be made using the cited references to reject above amended independent claims 1 and 16 or the claims depending therefrom. With respect to independent claims 1 and 16, Applicants respectfully assert that the cited references do not disclose, teach or suggest a manipulation tool having a proximal end, a distal end, and a shaft located along a longitudinal axis of the manipulation tool between the proximal and distal ends, "said longitudinal axis of said shaft perpendicular to a longitudinal axis of said engagement holes, said shaft including a central channel coaxial with said longitudinal axis, said central channel housing a post, said post having a bent distal end perpendicular to the central

channel of the shaft." Claims 1 and 16 further recite, in part, said post having a first position corresponding to the post being disposed entirely within the distal end of said manipulation tool, and a second position corresponding to said post extending outwardly from said distal end of said manipulation tool. In contrast to the claimed orientation of the bent distal end of the post of the manipulation tool in relation to the engagement holes of the baseplates, there is simply no bent distal end on a post of the devices disclosed in the cited references that is structured to engage engagement holes of baseplates as claimed.

For the foregoing reasons, Applicants respectfully assert that a *prima facie* case of obviousness cannot be made using the cited references to reject amended independent claims 1 and 16 or the claims depending therefrom and that each pending claim is therefore in condition for allowance. As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Application No.: 10/663,488

Docket No.: SPINE 3.0-437
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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: April 19, 2010

Respectfully submitted,
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